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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,533	04/15/2004	Burl Shannon Hinkle	014033-000022C	8336

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EXAMINER

CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
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2193

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/825,533

Applicant(s)

HINKLE ET AL.

Examiner

John Chavis

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. The claimed invention in claims 13-24 is directed to non-statutory subject matter.

The claim is considered non-statutory because a computer program product is claimed; however, the product is not stored on a computer readable medium. The problem occurs in claim 13 and nothing in the dependent claims appear to overcome the problem.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4, 6, 8, 13, 16, 18, 20, 25, 30, 32, 34-36 are rejected under 35

U.S.C. 102(e) as being anticipated by El Ata (2002/0049573).

Claims

EL Ata

1. A method of modeling a business process to facilitate an evaluation of driving metrics for a selected goal metric, the method comprising
:

See the title and the abstract.

gathering data to define a plurality of interrelated metrics associated with the business process;

See items 110 and 120 of fig. 2A. Also, see sect. 0006.

creating a plurality of models based on the data, each of the plurality of models corresponding to one of the plurality of interrelated metrics;

See item 130 of fig. 2A.

optimizing the plurality of models to minimize the difference between an estimated value and a goal value for the selected goal metric; and

See item 140 of fig. 2A. Also, see sect. 0021. See also sect. 0031 in which the estimated value is represented by the benchmark.

combining results of the optimizing to produce a summary which describes a hierarchy of selected driving metrics for the selected goal metric.

See items 150-170 of fig. 2A

4. The method of claim 1 wherein the optimizing further comprises setting values for at least some of the interrelated metrics to associated lag target values so that the summary reflects time lag effects.

See sect. 0026.

6. The method of claim 1 wherein the creating of the plurality of models further comprises:

setting a correlation coefficient starting value to limit the number of selected driving metrics to a pre-selected maximum number; and

See the volume constraints in sect. 0027.

omitting from the creating of the plurality of models the interrelated metrics having a correlation coefficient that is less than a pre-selected starting value.

See the business constraints in sect. 0027.

Claim 8 is rejected as claim 6.

As per claims 13, 16, 18, and 20, see the rejection of claims 1, 4, 6, and 8.

The features of claim 25 are taught via claim 1.

In reference to claim 30, see the rejection of claim 1. However, the only components of the applicant's system are considered to be the input screen and the processor. The other features "operable to..." are considered desired results in which the system is able to perform (which is possible if nothing in the system indicates that the specific features cannot be performed. However, see figs. 2B, 3 and 4.

Claim 32 is taught via claim 4 above.

As per claims 34-36, see the rejection of claim 6.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 5, 7, 9-12, 14, 17, 19, 21-24, 26-29, 31-33, 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over El Ata as applied to claim 1 above, and further in view of the applicant's choice of selecting a non-linear optimization routine.

2. The method of claim 1 wherein the optimizing further comprises performing a non-linear optimization for each of the plurality of models to adjust the primary coefficients and exponents.

In reference to claim 2, El Ata provides for searching a logic tree; however, it would have been obvious to a person having ordinary skill in the art at the time of the invention to utilize non linear optimizations in El Ata's system to improve efficiency by searching only items that are capable of being updated

and not be subjected all of the modules since some may have only constant data or may already have reached constraint limits.

5. The method of claim 2 wherein the optimizing further comprises setting values for at least some of the interrelated metrics to associated lag target values so that the summary reflects time lag effects.

See sect. 0027.

7. The method of claim 2 wherein the creating of the plurality of models further comprises:
setting a correlation coefficient starting value to limit the number of selected driving metrics to a pre-selected maximum number; and

See the rejection of claim 6.

omitting from the creating of the plurality of models the interrelated metrics having a correlation coefficient that is less than a pre-selected starting value.

In reference to claims 9-12, see the constraints in sect. 0027. It is clear that each of the constraints could (as a design choice) initially be set to their maximum limit or could only have one limit and therefore would be represented as constant values that cannot be controlled within the business process.

As per claims 14, 17, 19, and 21-24, see the rejection of claims 9-12.

See claim 5 in view of claim 26.

The features of claim 27 are taught via claim 5 in view of the constraints in section 0027, which could be represented by an average value.

In reference to claim 28-29 and 31, see the data store in claim 3 on page 5.

As per claim 33, see the rejection of claim 2.

See claim 6 in view of claim 2 for the rejection of claim 37.

The features of claims 38-39 are taught via claim 2.

In reference to claim 40, see the rejection of claim 2 in view of claim 9.

Allowable Subject Matter

7. Claims 3 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (571) 272-3720. The examiner can normally be reached on M-F, 9:00am-5:30pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC

A handwritten signature in black ink, appearing to read "John Chavis".

John Chavis
Primary Examiner AU-2193